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28 May 2004

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Indonesia: Update to IDN34972 of 19 July 2000 regarding the treatment of Muslim homosexuals, both by the Muslim community and the authorities, especially the police, as well as the availability of state protection
Research Directorate, Immigration and Refugee Board, Ottawa

Definition of Homosexuality

The definition of "homosexual" can be particularly complex in Indonesia. During an 11 May 2004 telephone interview, a professor of Anthropology at the University of California (Irvine) provided the following information: He explained that *waria*, men who dress and act as women in Indonesian society, are quite visible, but that "gay" men tend to hide their sexuality (11 May 2004). The professor indicated that the concept of a masculine man wanting to have a sexual relationship with another masculine man (or a feminine woman wanting such a relationship with a woman) was foreign to most Indonesians and thus, the concept of homosexuality in the North American sense of gay or lesbian is not widely understood. Other sources gave similar information (*Inside Indonesia* Apr-June 2001a; *The Age* 22 Feb. 2003).

Sources indicate that *waria* are a fundamental part of Indonesian society, highly visible and widely accepted (ibid.). Gaytimes, a travel advice Website for gays and lesbians advised its gay and lesbian clients that "Indonesia whilst predominantly a Muslim country in common with other South-East Asian nations is tolerant of homosexuality" (16 Feb. 2004).

Legislation

Reports indicate that homosexuality has never been outlawed in Indonesia (Gaytimes 16 Feb. 2004; *The Age* 22 Feb. 2003; *SCMP* 1 Oct. 2003; UPI 15 July 2003). No mention was found of so-called "sodomy" laws, which are "any of the many laws which criminalize non-reproductive, non-commercial sex between adults in private" (Sodomy Laws 8 May 2004) and which are often applied selectively to homosexuals (Wikipedia 13 May 2004). According to Avert.org, in Indonesia the legal age of consent is seventeen and no separate laws of consent exist for homosexual acts (9 Jan. 2004).

In September 2003, Indonesia announced that it was studying a proposal to amend its criminal code to cover "acts that are considered morally unacceptable" a declaration that was taken to mean that the government intended to outlaw homosexual acts (Gay.com UK 30 Sept. 2003; BBC 29 Sept. 2003; *SCMP* 1 Oct. 2003;). No information could be found among the sources consulted by the Research Directorate as to whether this law has been enacted.

Treatment by Communities and Authorities

Regarding the treatment of Muslim homosexuals (*waria* or gay men), *The Age* reported that "Muslim men in skirts and heels are tolerated as another exotic ingredient in Indonesia's rich and forgiving mix" (22 Feb. 2003). Information on whether gay Muslim men would face treatment different from that of gay non-Muslim men was not found among the sources consulted by the Research Directorate.

The Royal Tropical Institute reported that "[h]omosexual acts between consenting adults, and cross-dressing are not criminal offences, and gays seldom are the targets of violence. Nevertheless, discrimination against gay, lesbian, bisexual and transgender (GLBT) persons does take place - usually in more subtle ways and mainly in the family" (2001).

An educator from the Spiritia Foundation, a counselling service for HIV/AIDS patients (FHI 22 July 2002), reports that although he is openly gay and living in Indonesia with a Muslim partner, he has never experienced any form of harassment (10 May 2004). He reported that there was no pattern of "gay bashing" and he had never heard of the police taking any special interest in gays (Spiritia Foundation 10 May 2004). He did report that in many Indonesian communities (including the Muslim community), there is strong family pressure on gay men to marry and have children (ibid.). This information was corroborated by the professor from the University of California (Irvine) who said that almost all men (Muslim or not) were expected to marry women and produce

families regardless of their sexual preference (11 May 2004). An article on gay marriage indicated that in Indonesia "same sex relationships are often maintained alongside obligatory heterosexual marriages" (UPI 15 July 2003).

Police

Regarding treatment of homosexuals by the police in Indonesia, the educator from the Spiritia Foundation reported that he was not aware of "the police taking any special interest in gays, although male and transgendered sex workers (like female sex workers) may sometimes be the subject of police harassment" (10 May 2004). Corroborating evidence on the treatment of homosexuals by police, as of 2004, could not be found among the sources consulted by the Research Directorate.

State Protection

Regarding state protection, as noted above, homosexuality is not illegal in Indonesia (*The Age* 22 Feb. 2003; *SCMP* 1 Oct. 2003). Information on consistent harassment of homosexuals by authorities or on state protection of homosexuals through legislation could not be found among the sources consulted by the Research Directorate.

Harassment

Several articles reported attacks that occurred in 1999 and 2000 on groups or gatherings associated with homosexuals (*waria* , gay or lesbian) (Planet Out 13 Oct. 1999; *Inside Indonesia* Apr-June 2001a). In 2001, Dédé Oetomo, an openly gay professor and gay rights activist in Indonesia said, "I think we are entering a new phase in the development of Indonesian homosexualities, one where homophobic attacks, previously unknown, are becoming a bitter reality" (*Inside Indonesia* Apr-June 2001a). However, in 2002, he expressed pleasure in an apparent change in attitudes, saying that there was an upsurge in interest for literature addressing gay and lesbian issues (IPS 19 Jan. 2002).

The professor from the University of California (Irvine) stated that he thought there had been a period of violence towards homosexuals (and other so-called immoral groups such as female sex workers, exotic dancers and the like) four or five years ago (1999-2000), but that no such incidents had happened in recent years (11 May 2004).

Organizations

Non-government organizations (NGOs) that address gay/lesbian/*waria* issues are legal and exist in Indonesia, including Persatuan Lesbian Indonesia (Indonesian Lesbian Union), Gaya Nusantara, Chandra Kirana, Asian Lesbian Network (ALN) (*Inside Indonesia* Apr-June 2001b), Jaringan Lesbian & Gay Indonesia (Indonesian Gay and Lesbian Network) (Planet Out 13 Oct. 1999), Lambda Indonesia (LI) (*Inside Indonesia* Mar. 1996) and Koalisi Perempuan Indonesia untuk Keadilan dan Demokrasi (Indonesian Women's Coalition for Justice and Democracy) (*Inside Indonesia* Apr.-June 2001a). According to Gaytimes:

The first gay movement organisation was founded in Indonesia in 1981. In the early 1990's LGBT [lesbian/gay/bisexual/transgender] organisations spread throughout the archipelago and in 1993 the first Indonesian Lesbian and Gay Congress was held in Yogyakarta. Indonesia's first Gay Pride celebration took place in Surabaya, in June 1999 (16 Feb. 2004).

Political Representation

In the political arena, according to the University of California professor, only one political party has tried to address *waria* , gay or lesbian issues as part of its platform and no party has an anti-homosexual (gay/lesbian/*waria*) platform (11 May 2004). One political party, the People's Democratic Party has been described as "gay-friendly" (Planet Out 13 Oct. 1999; Royal Tropical Institute 2001). One article mentions that the local branch of the Partai Demokrasi Indonesia Perjuangan (Struggling Indonesian Democratic Party - PDIP) advocated on behalf of a gay hairdresser when a Muslim group demanded that he shut his business down (*Inside Indonesia* Apr-June 2001a). Dédé Oetomo, who has been described as one of the most visible openly gay Indonesians (professor, U of C 11 May 2004), has twice run for political office for the People's Democratic Party (PRD) promising that if elected "he will push for the rights of gays and lesbians, promote land reform for poor farmers and try to organise the city's thousands of sex workers" (*SCMP* 1 June 1999).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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